

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**PAUL NICKLEN and  
CRISTINA MITTERMEIER,**  
*Plaintiffs,*

**Case 1:20-cv-10300-JSR**

**v.**

**CASE MANAGEMENT  
ORDER (Rule 23)**

**MASHABLE, INC., et. al,**  
*Defendants.*

After consultation with counsel for the parties that have appeared in this action, are still parties to this action and participated in the drafting of this Plan, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

- A. This case **is** to be tried to a jury.
- B. Plaintiffs shall file a further amended complaint by **February 24, 2021**.
- C. Joinder of additional parties must be accomplished by **March 4, 2021**.
- D. Defendants' response(s) to the operative complaint are due **March 8, 2021**. Plaintiffs' response(s) to any motion(s) to dismiss are due **March 22, 2021**. Defendants may file reply brief(s) no later than **March 29, 2021**. The Court will hear oral argument on any motions to dismiss on **April 7, 2021 at 3:45 p.m.** Counsel shall jointly call Chambers by March 30, 2021 to state their preferences regarding whether the proceeding should take place in person or remotely.
- E. Plaintiffs' class certification motion must be filed by **June 11, 2021**. Any opposition to plaintiffs' class certification motion must be filed by **June 25, 2021**. Any reply brief must be filed by **July 1, 2021**. The Court will hear oral argument on the class certification motion **July 8, 2021 at 4:00 p.m.** in Courtroom 14B.
- F. Discovery (in addition to the disclosures required by Fed. R. Civ. P. 26(a)):

1. Documents. First request for production of documents, if any, must be served by **March 1, 2021**. Further document requests may be served as required, but no document request may be served later than 30 days prior to the date of the close of discovery as set forth below.
2. Interrogatories. Interrogatories pursuant to Rule 33.3(a) of the Local Civil Rules of the Southern District of New York must be served by **March 1, 2021**. No other interrogatories are permitted except upon prior express permission of Judge Rakoff. No Rule 33.3(a) interrogatories need be served with respect to disclosures automatically required by Fed. R. Civ. P. 26(a).
3. Experts. Every party-proponent of a claim (including any counterclaim, cross-claim, or third-party claim) that intends to offer expert testimony in respect of such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) within **90 days of the initial conference**. Every party-opponent of such claim that intends to offer expert testimony in opposition to such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2)(2) within 30 days after the disclosures required by Fed. R. Civ. P. 26(a)(2). No expert testimony (whether designated as “rebuttal” or otherwise) will be permitted by other experts or beyond the scope of the opinions covered by the aforesaid disclosures except upon prior express permission of the Court, application for which must be made no later than 10 days after the date specified in the immediately preceding sentence. All experts may be deposed, but such depositions must occur within the time limit for all depositions set forth below.
4. Depositions. All depositions (including any expert depositions, see item 3 above) must be completed by **July 19, 2021**. Unless counsel agree otherwise or the Court so orders, depositions shall not commence until all parties have completed the initial disclosures required by Fed. R. Civ. P. 26(a)(1) or until four weeks from the date of this Order, whichever is earlier. Depositions shall proceed concurrently, with no party having priority, and no deposition shall extend beyond one business day without leave of the Court.
5. Requests to Admit. Requests to Admit, if any, must be served **no later than 30 days prior to date of close of discovery** as set forth in item 6 below.
6. All discovery is to be completed by **July 19, 2021**. Interim deadlines for items 1-5 above may be extended by the parties on consent without application to the Court, provided the parties are certain they can still meet the discovery completion date set forth in this paragraph. The discovery completion date may be adjourned only upon a showing to the Court of extraordinary circumstances, and may not be extended on consent.

- I. Post-discovery summary judgment motions in the form prescribed by the Court's Individual Rules of Practice may be brought on without further consultation with the Court provided that a Notice of any such motion, in the form specified in the Court's Individual Rules of Practice, is filed no later than one week following the close-of-discovery date (Item H-6 above) and provided that the **moving papers are served by July 26, 2021, answering papers by August 13, 2021, and reply papers by August 23, 2021** [the last of these days being no later than six weeks following the close of discovery]. Each party must file its respective papers with the Clerk of the Court on the same date that such papers are served. Additionally, on the same date that any papers are served and filed, counsel filing and serving the papers must arrange to deliver courtesy non-electronic hard copies to the Courthouse for delivery to Chambers.
- J. A final pre-trial conference, as well as oral argument on any post-discovery summary judgment motions, shall be held on August 30, 2021 at 11 a.m. in Courtroom 14B [date to be inserted by the Court], at which time the Court shall set a firm trial date. The timing and other requirements for the Joint Pretrial Order and/or other pre-trial submissions shall be governed by the Court's Individual Rules of Practice.
- K. All motions and applications shall be governed by Judge Rakoff's Individual Rules of Practice. Counsel shall promptly familiarize themselves with all of the Court's Individual Rules, as well as with the Local Rules for the United States District Court for the Southern District of New York.

SO ORDERED.

DATED: New York, New York  
February 18, 2021

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United States District Judge